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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
Equal Access and Interconnection ) CC Docket No. 94-54  
Obligations Pertaining to ) RM-8012  
Commercial Mobile Radio Services )

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**REPLY COMMENTS OF  
GEOTEK COMMUNICATIONS, INC.**

Geotek Communications, Inc. ("Geotek"), on behalf of its subsidiaries providing specialized mobile radio ("SMR") services, submits these reply comments in the above-captioned docket.

**I. THE COMMENTS SUPPORT LIMITING THE IMPOSITION OF  
EQUAL ACCESS TO CMRS ENTITIES WITH MARKET POWER AND  
CONTROL OF "BOTTLENECK" FACILITIES**

The majority of commenters, including cellular, SMR and personal communications services ("PCS") entities, support limiting the imposition of equal access to commercial mobile radio service ("CMRS") providers with market power and control of "bottleneck" facilities.<sup>1</sup> Equal access was imposed

<sup>1</sup> See, e.g., Comments of: Pacific Telecom Cellular, Nextel Communications ("Nextel"), Point Communications, American Mobile Telecommunications Association ("AMTA"), Horizon Cellular, National Telephone Cooperative Association ("NCTA"), Southwestern Bell, Century Cellular, Dial Page, GTE, ALLTEL Mobile, Comcast, AirTouch, BellSouth, Saco River Cellular, NYNEX, SNET Mobility, OPASTCO, E.F. Johnson, OneComm, Cox Enterprises, Personal Communications Industry ("PCIA"), Columbia PCS, Dakota Cellular, Americell PA-3, Sagir, Florida Cellular RSA, Highland Cellular, First Cellular of Maryland, Independent RSA Carriers, National Association of Business and

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by the courts on the Bell Operating Companies ("BOCs") and by the FCC on the independent wireline telcos to remove barriers to entry and to encourage competition between interexchange carriers ("IXCs") and AT&T.<sup>2</sup> As a result, most landline local exchange companies are subject to equal access.<sup>3</sup> Accordingly, in the NPRM & NOI, the Commission tentatively concluded that the determination of whether to impose equal access on CMRS services should include both a market power analysis and an analysis of whether equal access would promote the efficient provision of service to consumers at reasonable prices, foster competition and promote the broadest possible access to telecommunications networks by consumers (hereinafter, the Commission's "equal analysis test").<sup>4</sup> Most commenters support the Commission's equal analysis test.<sup>5</sup>

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<sup>1</sup>(...continued)

Educational Radio ("NABER"), Triad Cellular, RAM Mobile Data, Western Wireless, Vanguard Cellular, and McCaw. For purposes of these reply comments, Geotek defines carriers with market power and/or control over bottleneck facilities as "dominant" and those carriers without such market power or control as "nondominant".

<sup>2</sup> Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, Notice of Proposed Rulemaking and Notice of Inquiry, CC Docket Number 94-54, FCC 94-145, ¶¶ 6-8, 24-26 (released July 1, 1994) ("NPRM & NOI"). See also Comments of CTIA.

<sup>3</sup> NPRM & NOI at ¶ 6.

<sup>4</sup> See NPRM & NOI at ¶ 31.

<sup>5</sup> See, e.g., note 1.

By applying the Commission's equal analysis test on a service-specific basis, the majority of the commenters submit that equal access should not be imposed on nondominant CMRS providers generally<sup>6</sup> and several others such as Geotek submit that it should not be imposed on SMR service providers specifically.<sup>7</sup> This viewpoint is supported by the Commission's own finding that "all CMRS providers, other than cellular licensees, currently lack market power."<sup>8</sup> In fact, in comparison to cellular, SMRs have substantially less spectrum, less technically advanced systems and a smaller customer base. In addition, as Geotek, AMTA, NABER and OneComm state in their comments, equal access would only increase costs of SMR service for dispatch consumers without creating the intended benefits such as more competition or improved access. Accordingly, Geotek and several other commenters in this docket submit that because SMR service providers do not possess market power nor bottleneck facilities and its imposition would unnecessarily increase costs with little corresponding benefit to users, equal access requirements should not be applied to the SMR service.<sup>9</sup>

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<sup>6</sup> See note 1.

<sup>7</sup> See, e.g., Comments of Geotek, Nextel, E.F. Johnson, AMTA and OneComm.

<sup>8</sup> See NPRM & NOI, ¶ 33.

<sup>9</sup> See notes 1 and 8, supra.

## II. THE COMMENTERS OPPOSE THE IMPOSITION OF EQUAL ACCESS ON ALL CMRS PROVIDERS TO SERVE THE GOALS OF REGULATORY PARITY

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The majority of commenters do not support imposing equal access on all CMRS providers merely to serve the goals of regulatory parity.<sup>10</sup> Rather, the commenters argue that, as discussed above, equal access is designed to increase customer choices in markets where dominant carriers have market power and control over bottleneck facilities. Where customers already have competitive choices, such as in the dispatch market where the majority of dispatch customers provide their own dispatch services internally rather than from SMR service providers, equal access merely imposes enormous costs without creating corresponding benefits.<sup>11</sup> Nevertheless, several parties, particularly cellular service providers,<sup>12</sup> argue that if equal access is imposed, then it should be imposed on all CMRS providers merely to serve the unrelated doctrine of regulatory parity.

Geotek submits that the Commission is under no statutory obligation to mandate equal access on nondominant CMRS providers, such as SMR service providers, purely for reasons of regulatory parity. In GN Docket 94-33,

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<sup>10</sup> See, e.g., note 1, *supra*.

<sup>11</sup> Accord, Small Market Cellular Operators, RAM Mobile Data, Pacific Telecom Cellular, Nextel, AMTA and Highland Cellular.

<sup>12</sup> See Comments of Century Cellunet.

for example, the Commission found that the regulatory parity provisions of the Communications Act of 1934<sup>13</sup> do not require the Commission to regulate all CMRS services in an identical manner.<sup>14</sup> In addition, the majority of commenters indicate that implementing equal access would be a significant burden, particularly for smaller CMRS providers.<sup>15</sup> Therefore, because cellular carriers already enjoy market power, Geotek submits that it is no coincidence that most of the commenters that supported the imposition of equal access on all CMRS services are BOC-affiliated or otherwise dominant cellular service providers.<sup>16</sup> Accordingly, Geotek submits that it is firmly opposed to the comments that suggest that equal access should be imposed on all CMRS services even where, as in the case of the SMR service, providers such as Geotek clearly do not have market power nor control of bottleneck facilities.

### CONCLUSION

The overwhelming majority of commenters support the imposition of equal access only where CMRS providers have market power and control of

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<sup>13</sup> 47 U.S.C. § 332(c).

<sup>14</sup> See Further Forbearance, Notice of Proposed Rule Making, 9 FCC Rcd. 2164, ¶ 4 (citing H.R. Conf. Rep. No. 103-213, 103d Cong., 1st Sess. 491 (1993)).

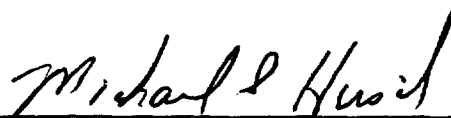
<sup>15</sup> See note 6, supra.

<sup>16</sup> See, e.g., Comments of: Bell Atlantic, Pacific Bell, Ameritech, AT&T, Rochester Telephone, Puerto Rico Telephone Company and MCI.

bottleneck facilities. Such commenters note that non-BOC CMRS providers generally, and SMRs in particular, do not have market power nor control of bottleneck facilities. Therefore, the majority of commenters conclude that the costs of complying with equal access requirements for CMRS providers without market power, such as SMR providers like Geotek, would far outweigh any discernable benefits. Accordingly, Geotek submits that the record in this proceeding admonishes that imposing equal access on CMRS providers without market power would not serve the public interest.

Respectfully submitted by:

**GEOTEK COMMUNICATIONS, INC.**

A handwritten signature in dark ink, appearing to read "Michael S. Hirsch", is written over a horizontal line.

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Dated: October 13, 1994

**CERTIFICATE OF SERVICE**

I, Michael S. Hirsch, hereby certify that on this 13th day of October, 1994, a copy of the foregoing Reply Comments of Geotek Communications, Inc. was mailed by first class U.S. Mail, postage prepaid, to thee following:

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